

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:08cv344
)	
Plaintiff,)	
)	
v.)	ANSWER
)	
\$35,000.00 IN UNITED STATES)	
CURRENCY,)	
)	
Defendant.)	

Claimant, Daniel K. Hitchcock (“Hitchcock”), by and through counsel Justin J. Cook, hereby responds to the Plaintiff’s Complaint as follows:

ANSWER

Hitchcock admits, denies and responds to each numbered paragraph of the Complaint as follows:

1. Hitchcock, generally denies each and every allegation of Plaintiff’s Complaint, save and except those allegations which may be hereinafter admitted or those allegations which may constitute admissions against the Plaintiff’s interests.

2. Hitchcock admits the information within paragraphs 2 and 5 of the Plaintiff’s Complaint.

3. Hitchcock specifically denies the information within paragraphs 1, 6, 6a, 6b, 6c and 7 of the Plaintiff’s Complaint.

4. Hitchcock lacks sufficient information to either admit or deny the allegations within paragraphs 3 and 4 of the Plaintiffs’ Complaint filed herein and therefore denies said allegations.

AFFIRMATIVE DEFENSES

1. Plaintiffs’ Complaint fails to state a claim upon which relief can be granted.

2. That Plaintiff has taken possession of Claimant’s property as part of an illegal search and seizure of Claimants person and property and as such these proceedings should be barred.

3. That the subject property was used for lawful purposes and therefore does not fall within the realm of Title 21, United States Code, Section 881 (a)(6), or any other Federal or state law regarding property used or intended to be used in the commission of or to facilitate the commission of violations of Title 21, United States Code, Sections 841 and 844.

4. Defendant may have additional defenses not known to it, but which may be discovered during the course of these proceedings. Hitchcock does not wish to waive such defenses and specifically asserts them hereby, reserving the right to amend to plead other affirmative defenses as they become known. Hitchcock further reserves the right to cross-claim and bring third party complaints where appropriate.

WHEREFORE, Hitchcock prays for relief from the court as follows:

1. That the court bar Plaintiff from bringing any claims against Claimant's property in this matter, that said property be returned to the Claimant, and that all claims be dismissed;

2. That Hitchcock recover his costs herein incurred, including reasonable attorneys' fees and costs;

3. For such other relief as the court deems just and proper.

DATED: September 8, 2008

DANIEL K. HITCHCOCK, Claimant.

By: /s/ Justin J. Cook
Justin J. Cook, #22265
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Attorney for Claimant

CERTIFICATE OF SERVICE

THE UNDERSIGNED attorney of record, hereby certifies that a copy of the forgoing was sent this 8th day of September, 2008, to all parties registered with the ECF system, and to Nancy A. Svoboda at: nancy.svoboda@usdoj.gov.

/s/ Justin J. Cook

Justin J. Cook